



The Office of the Northwest Territories Languages Commissioner Annual Report 2008-2009



Know Your Language Rights – Use Your Language Rights

If you would like this information in another official language, call us.

English

Si vous voulez ces informations en français, contactez-nous.

French

Kīspin ki nitawihtīn ē nīhīyawihk ōma ācimōwin, tipwāsinān.

Cree

TŁIČHŦ YATI K'ĚĚ. DI WEGODI NEWŦ DĚ, GOTS'O GONEDE.

Tłıchŧ

ŦERIHTŁ'ÍS DĚNE SÚLINÉ YATI T'A HUTS'ELKĚR
XA BEYÁYATI THEŦA ŦAT'E, NUWE TS'ĚN YÓŁTI.

Chipewyan

EDI GONDI DEHGÁH GOT'IE ZHATIÉ K'ĚĚ
EDATŁ'ÉH ENAHDDHE NIDE.

South Slavey

K'ÁHSHÓ GOT'INE XƏDÓ K'É HEDERI
ŦEDIHTL'É YERINIWE NÍDÉ DÚLE.

North Slavey

Jii gwandak izhii ginjik vat'atr'ijahch'uu zhit
yinothan ji', diits'at ginohkhi.

Gwich'in

UVANITTUAQ ILITCHURISUKUPKU INUVIALUKTUN, QUQUAQLUTA.

Inuvialuktun

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Inuktitut

Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarlutit.

Inuinnaqtun

1-800-661-0884

The front cover of this Annual Report is a winning entry
from the poster contest sponsored by the Office of the Languages Commissioner.
It was created by Ramona Menicoche of Thomas Simpson School in Fort Simpson.

Message from the Languages Commissioner



Greetings.

This Annual Report provides an overview of the activities of the Office for the 2008-2009 fiscal year. The report also contains an overview of recent court decisions, and how they may impact on the provision of language services in the Northwest Territories. The report also deals with the proposed *Official Languages Services Act*, and the effect it may have on the Northwest Territories. The report also contains recommendations for consideration by the Legislative Assembly.

I strongly urge the Legislative Assembly of the Northwest Territories and the Government of the Northwest Territories to look at this report with a view to ensuring that the requirements of the *Official Languages Act* are met, to ensure the best possible service to the residence of the Northwest Territories, and to move forward in a positive fashion.

This is my last report as Languages Commissioner, and I want to thank the Members of the Legislative Assembly for allowing me the privilege and pleasure of serving in this role. I also want to welcome Ms. Sarah Jerome, the new Languages Commissioner. It has been a pleasure to get to know Sarah, and I am confident that she will be an asset to the office. Language is definitely her passion.

Please do not hesitate to contact the Office if you have any questions or concerns about this Annual Report, or if you have a complaint or inquiry that should be directed to this office.

Mahsi.

The Past

Overview of the *Official Languages Act* and the Office of the Languages Commissioner

In 1984, the Legislative Assembly passed its first *Official Languages Act*. Modelled after the Federal Act, it had two essential purposes: the Act guaranteed equal status for the use of English and French by members of the public using government programs and services, and the Act officially recognized the Aboriginal languages in use in the Northwest Territories. In 1990, the Legislative Assembly made major amendments to the Act to give greater status to northern Aboriginal languages. Recognizing the official status of Aboriginal languages was intended to preserve and promote Aboriginal cultures through protection of their languages.

The 1990 amendments also created the position of Languages Commissioner of the Northwest Territories to be appointed by the Legislative Assembly for a term of four years. The Act gave the Languages Commissioner authority to investigate complaints in regard to compliance with the Act, initiate investigations as appropriate, and engage in activities related to the promotion and protection of Official Languages.

In 2001, the Legislative Assembly appointed a Special Committee on the Review of Official Languages (SCOL). In 2003-2004, the Government of the Northwest Territories (GNWT) considered and responded to the SCOL report. The end result was that major amendments were made to the Act. Some of those amendments had a direct and significant impact on the Office of the Languages Commissioner:

- Section 20(1) of the *Official Languages Act* used to contain a provision giving the Languages Commissioner a broad mandate, including taking steps to ensure the promotion and preservation of Official Languages. This promotional role was deleted and the position of Languages Commissioner was narrowed to that of an “ombudsman type” role. That is, the role of the Languages Commissioner became one of ensuring compliance with the Act through investigating complaints, handling inquiries and initiating investigations where appropriate.

- The role of promoting and preserving Official Languages was turned over to the newly created position of Minister Responsible for Official Languages. As part of fulfilling this role, the Minister established two Boards – the Official Languages Board and the Aboriginal Languages Revitalization Board. The Official Languages Board is to review the rights and status of Official Languages, and their use in the administration and delivery of services to government institutions. The Aboriginal Languages Revitalization Board is responsible for reviewing programs and initiatives dealing with Aboriginal languages, and promoting and revitalizing Aboriginal languages.
- Before the amendments, the Act referred to eight Official Languages (Chipewyan, Cree, Dogrib, English, French, Gwich'in, Inuktitut and Slavey). In the definitions section of the Act, “Slavey” was defined to include North Slavey and South Slavey, and “Inuktitut” was defined to include both Inuinnaqtun and Inuvialuktun. With the amendments, the Act now clearly identifies North Slavey, South Slavey, Inuinnaqtun and Inuvialuktun as separate Official Languages. As well, “Dogrib” is referred to by its proper name, Tłıchǫ. As such, the Northwest Territories now has 11 distinct Official Languages.



The Languages Commissioner needs to be available to handle inquiries, investigate complaints and initiate investigations of non-compliance with the Act. The Languages Commissioner acts in a truly ombudsman like fashion, and maintains distance from the Legislative Assembly and GNWT. This adds to the independence of the Office.

Section 35 of the *Official Languages Act* stipulates that the Act must be reviewed in 2008. The Standing Committee on Government Operations conducted this review, which included consultation with various stakeholders. That committee has now tabled its final report, entitled “Reality Check: Securing a Future for the Official Languages of the Northwest Territories”. The report includes numerous recommendations, including the development of an *Official Languages Services Act* to replace the *Official Languages Act*.

Recommendations Previously Made by the Languages Commissioner

A continued issue over the life of the Office has been the failure of the Legislative Assembly or the Government of the Northwest Territories to provide any response to the numerous recommendations made by Languages Commissioners. The Special Committee on Official Languages (SCOL) pointed this out. On page 15 of their summary report, they stated:

“... the Legislative Assembly has often not responded to the Commissioner’s recommendations.”

This point was reiterated by the Court of Appeal in the case of *Northwest Territories (Attorney General) v. Federation Franco-Tenoise* (2008 NWTCA 06).

During the tenure of the current Languages Commissioner, a number of recommendations have been made in annual reports. These recommendations were provided to the Legislative Assembly for consideration. Most of the recommendations were accepted by the Standing Committee on Accountability and Oversight (or Standing Committee on Government Operations). The rest were seen to be of interest, and the

Committee passed motions that they be given serious consideration by the Government of the Northwest Territories, with a comprehensive report to be provided within 120 days. These Committee reports were then tabled and approved by the Legislative Assembly.

The Languages Commissioner has never had any official response back in regard to any of these recommendations. However, many of the recommendations deal with amendments to the *Official Languages Act*, and so, by virtue of the review of the Act, which has just been completed, one could claim that most of the recommendations have been considered. However, the continued failure of the Legislative Assembly to provide a concrete response to the recommendations put forth by Languages Commissioners over the years, jeopardizes the role of the Office. It must be remembered that the only “power” that the Languages Commissioner has is to make recommendations, and if these recommendations are ignored, it calls into question whether the Office has any real purpose.

The Present

Complaints and Inquiries

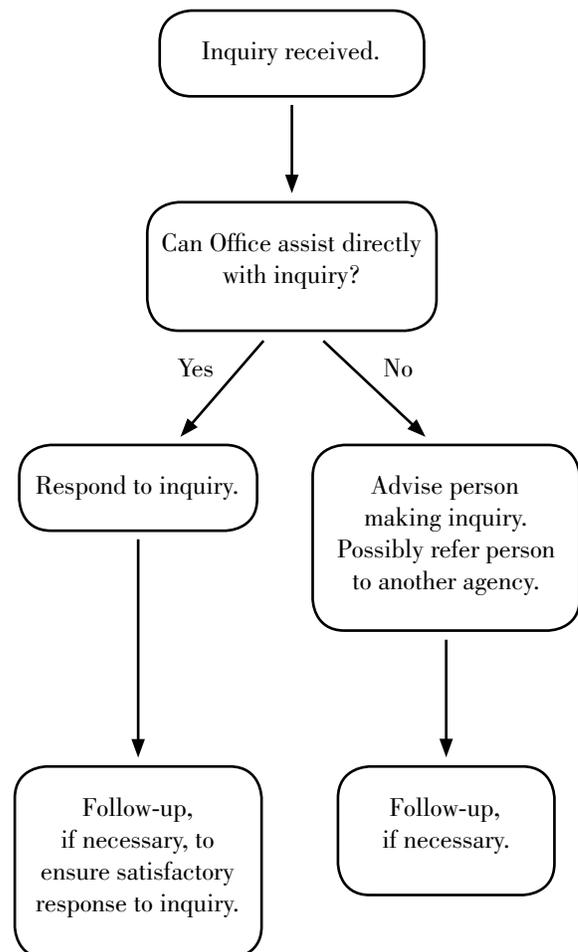
Definitions

- **Inquiry** – A simple request for information, usually related to the status or use of Official Languages, or about the *Official Languages Act*. It does not include any suggestion that a person feels that she or he has been unfairly treated.
- **Complaint** – A complaint involves a situation where a person or group feels that their language rights or privileges have been infringed or denied. They may feel that they have been treated unfairly or have been adversely affected by some policy, program, action or lack of action.
- **Investigation** – A situation where the Languages Commissioner decides to investigate a specific situation or larger systemic issue, regardless of whether a complaint has been filed with the Office.

Inquiry Process

The inquiry process established for the Office is as follows:

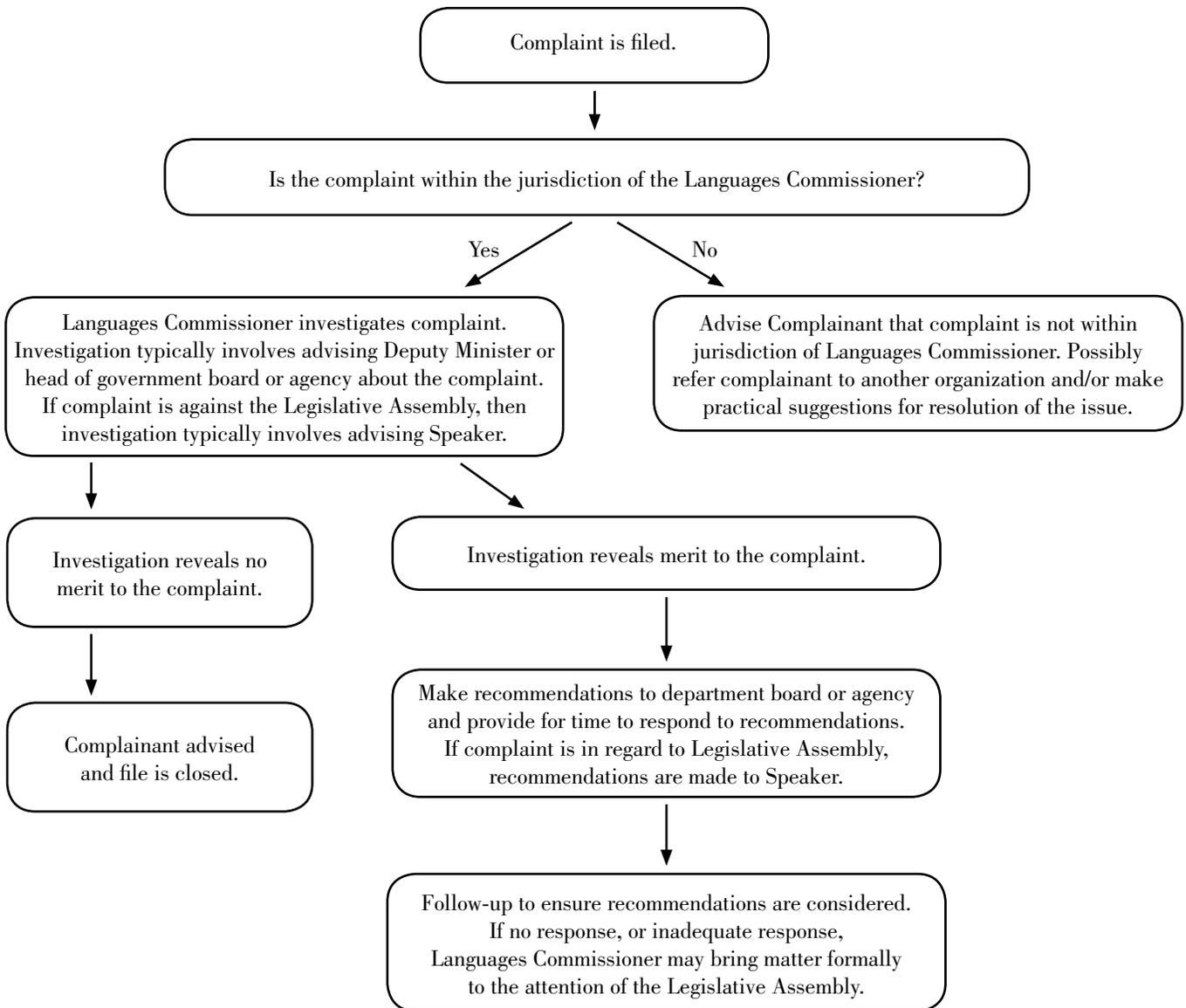
NWT *Official Languages Act* Inquiry Process



The Complaint Process

The complaint process established for the Office is as follows:

NWT *Official Languages Act* Complaint Process



Statistics for 2008-2009

- **Complaints** – In the 2008-2009 fiscal year, the Office did not receive any complaints.
- **Inquiries** – In the 2008-2009 fiscal year, the Office received 20 formal inquiries. This does not include the many questions and informal inquiries received by the Languages Commissioner when making presentations or attending functions. The inquiries can be broken down as follows:
 - i) Private vs. Public Sector: 60% of the inquiries came from the private sector. Of these, 8% (5% of total inquiries) came from Aboriginal organizations. The other 40% of the inquiries came from the public sector.
 - ii) Types of Inquiries: 60% of the inquiries were in regard to obtaining general information about the *Official Languages Act*. 20% were in regard to obtaining interpretation and translation services. The other 20% were in regard to education issues as they relate to language.

- iii) Location of Inquiry:
 - 80% Yellowknife
 - 20% Other Jurisdiction in Canada
- iv) Official Languages Involved in the Inquiry:
 - 45% All Official Languages
 - 30% All Aboriginal Languages
 - 15% French
 - 5% Inuinnaqtun
 - 5% Tłıchǰ



- **Investigations** – The Languages Commissioner decided to initiate one investigation. This investigation relates to issues surrounding the Aboriginal Languages Revitalization Board and the Official Languages Board.

Investigation Into Issues Surrounding the Aboriginal Languages Revitalization Board and Official Languages Board

In October 2008, the Languages Commissioner had the opportunity to meet with the Official Languages Board and the Aboriginal Languages Revitalization Board in Fort Smith. The Languages Commissioner also had an opportunity to meet with the Chair of the Official Languages Board in December 2008, and to hear the presentations made by the Official Languages Board and Aboriginal Languages Revitalization Board to the Standing Committee on Government Operations. A theme that came out of these meetings was that members of the Official Languages Board and Aboriginal Languages Revitalization Board felt that the Minister Responsible for Official Languages had never responded to the recommendations made by the Boards since their inception in 2004.

Pursuant to Section 20(2) of the *Official Languages Act*, the Languages Commissioner decided to investigate this issue. The methodology used to conduct this investigation was not complex. The Languages Commissioner :

- Attempted to review any written material on the issue of the recommendations made by the Aboriginal Languages Revitalization Board or the Official Languages Board to the Minister Responsible for Official Languages.
- Reviewed the *Official Languages Act* to consider the role of the Aboriginal Languages Revitalization Board and the Official Languages Board.
- In January 2009, wrote to the Minister Responsible for Official Languages, the Chair of the Aboriginal Languages Revitalization Board and the Chair of the Official Languages Board. The Languages Commissioner specifically requested that the parties provide the Languages Commissioner with copies of any and all information relating to the allegation that there has been a lack of response by the Minister to the recommendations made by the Boards. The Minister provided a response by the end of January 2009. Neither the Chair of the Official Languages Board or the Aboriginal Languages Revitalization Board provided a response, despite a second request for the information in March 2009. This made it very difficult to continue an investigation.

Nonetheless, there are some findings that can be made simply by looking at the responses from the Minister:

- There were 16 recommendations made, dated March 9, 2005. There were a further nine recommendations made in December 2006. It appears that all recommendations were responded to by the Minister Responsible for Official Languages.
- While there was a response to each recommendation, it is difficult to determine, from a review of the written materials, whether there was follow through on these responses. For example, one of the recommendations contained in the March 2005 list of recommendations, was that the Boards be provided with an organizational chart on all Divisional Education Councils and departmental roles and responsibilities. The response from the Minister was that a named official would make a presentation at the next board meeting. However, there is nothing to suggest that this presentation was actually made.
- Some of the issues raised in the recommendations appear to be internal to the Boards. For example, contained in the December 2006 recommendations are concerns about Board Member attendance and quorum at meetings.

- Section 29(1) of the *Official Languages Act* states that the mandate of the Official Languages Board is to review the rights and status of the Official Languages, and their use in the administration and delivery of services by government institutions, and to advise and make recommendations to the Minister Responsible for Official Languages. Section 31(2) of the *Official Languages Act* states that the Aboriginal Languages Revitalization Board is to review programs and initiatives designed to maintain, promote and revitalize Aboriginal languages, and to make recommendations to the Minister Responsible for Official Languages. The Boards have not made any recommendations since December 2006. This suggests that they do not understand their roles, and calls into question the effectiveness of the Boards.

It is apparent that there is a need for the Minister to be clear when there has been a follow through on a response to a recommendation. Further, while some of the recommendations relate to the internal dynamics of the Boards, it is equally apparent that the Boards are looking to the Minister for assistance with these issues. As well, if the Boards are having some problems in understanding their roles and purposes, as it appears they are, then the Minister's office needs to address this issue.

RECOMMENDATIONS:

That the Minister Responsible for Official Languages provide a written confirmation to the Aboriginal Languages Revitalization Board and the Official Languages Board when there has been follow through on recommendations made by the Boards.

That the Minister Responsible for Official Languages provide support to the Aboriginal Languages Revitalization Board and Official Languages Board in regard to their roles and responsibilities and in dealing with issues internal to the Boards, such as attendance and quorum.

Budget

Office of the Commissioner of Official Languages

Fiscal Year 2008-2009
at March 31, 2009

	2008-2009			Free
	<u>Main Estimates</u>	<u>Expenditures</u>	<u>Commitments</u>	<u>Balance</u>
Compensation and Benefits	31,000.00	4,295.55	0.00	26,704.45
	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
	31,000.00	4,295.55	0.00	26,704.45
Travel and Transportation	18,000.00	9,278.73	0.00	8,721.27
Materials and Supplies	17,000.00	28,546.16	0.00	(11,546.16)
Purchased Services	9,000.00	23,631.26	0.00	(14,631.26)
Utilities	0.00	0.00	0.00	0.00
Contract Services	60,000.00	37,116.67	0.00	22,883.33
Fees and Payments	6,000.00	1,238.88	0.00	4,761.12
Other Expenses	1,000.00	0.00	0.00	1,000.00
Tangible Assets	0.00	0.00	0.00	0.00
Computer Hardware and Software	3,000.00	127.50	0.00	2,872.50
	<u>114,000.00</u>	<u>99,939.20</u>	<u>0.00</u>	<u>14,060.80</u>
TOTAL	<u>145,000.00</u>	<u>104,234.75</u>	<u>0.00</u>	<u>40,765.25</u>

Highlights

Web Site

The web site continues to be a fast and easy way to access information about the Office.

Promotion of the Office

Radio advertisements for the Office were run on CBC Radio, CJCD, Radio Taiga and CKLB (Aboriginal station). The advertisements, which promoted the Office, were heard in all 11 Official Languages.

The Languages Commissioner also had an opportunity to meet with various groups and individuals during the course of the year. Some highlights include:

- Attended the Dene Language Conference, including an information booth and facilitating a presentation to the participants.
- Attended and made presentation at Mildred Hall School Awards Ceremony.
- Made presentation and met with students from the Canada School of Public Service.
- Conducted presentations for Fort Smith and Fort Resolution in regard to the *Official Languages Act*. This included presentations at the Fort Smith Hospital and Aurora College in Fort Smith.
- Attended in Tuktoyaktuk, where visits were made to the Early Childhood Education Centre, schools, Aurora College, the Hamlet office and the Band office.
- Attended in Inuvik, including presentations to schools and the hospital, and providing information to the Town office.
- Attended the Beaufort Delta Education Council Annual Conference, where the Languages Commissioner provided a keynote address and met with the Aboriginal Language Instructors.
- Attended a conference in Toronto put on by Ombudsman Ontario entitled “Sharpening the Saw”. This conference was in regard to advanced investigation techniques.
- Attended a meeting with the Aboriginal Languages Revitalization Board and the Official Languages Board in Fort Smith.
- Conducted a presentation to the Yellowknives Dene First Nation, including people from both Dettah and N’dilo.
- Attended in front of the Standing Committee on Government Operations in regard to the Review of the *Official Languages Act*.
- Set up a booth for Aboriginal Languages Month at Centre Square Mall in Yellowknife, and facilitated a class celebrating Aboriginal Languages Month at Weledah Catholic School.

Other promotional ideas that were carried out included:

- Provided promotional materials to all health care centres and hospitals in the Northwest Territories, including copies of the Special Report on Health Care and Languages.
- Provided promotional packages to all teachers attending the Northern Teachers Conference in Yellowknife in February 2009.



Recent Court Cases of Interest

Northwest Territories (Attorney General) v. Federation Franco-Tenoise

This is a very complex case involving French Language rights in the Northwest Territories, and the case was mentioned in the last Annual Report. At that time, the case had been heard by the Court of Appeal of the Northwest Territories following an appeal of the judgement of Madame Justice Moreau. Since that time, both the appellants and that respondents in this case filed an application for leave to appeal to the Supreme Court of Canada, which was refused. The result is that the decision of the Court of Appeal stands. This means:

- The *Official Languages Act* of the Northwest Territories was intended to give substantive equality to English and French.
- There is no need to exhaust all remedies under the *Official Languages Act* before commencing court proceedings. Unlike the Federal *Official Languages Act*, the Northwest Territories *Official Languages Act* does not require a party to file a complaint with the Languages Commissioner before initiating legal action.
- The Legislative Assembly and the Government of the Northwest Territories have a range of options to consider in meeting their obligations under the *Official Languages Act*. The court stated:

“A consideration of the NWT’s unique circumstances and the vast array of services that the government must attempt to provide leads us to conclude that the GNWT’s range of options in meeting its obligations under the *OLA* is more broad than that described by the trial judge. When the service sought involves urgent or highly confidential matters, a member of the public is entitled to immediate service in French. Ideally, such service should usually be available without the interposition of a third party interpreter, especially when such confidential and sensitive matters as health are concerned. Similarly, consent forms for medical treatment should be available in French.

On the other hand, when urgency or confidentiality is not immediately engaged, the GNWT has greater flexibility in determining how to provide services in French. For example, while a member of the public is entitled to ask in French for a service mandated by the *OLA*, the front-line employee need not be bilingual. Rather, that individual should have ready access to a person who can respond to the request in French (for example, through a 1-800 number or another bilingual person in the office). Such choices go beyond accommodation. Rather, they provide a contextual means in which to achieve substantive equality in the unique circumstances of the NWT.”

- The Official Languages Policy and Guidelines have no legal effect, a point that has been made by this Office for many years. However, the court also found that there must be substantive equality between English and French under the *OLA*, and therefore, all notices directed to the public must be published in English and French. This would include all employment offers, calls for tender and public notices. The court also found that it included certificates that attest to a person’s status, such as birth certificates. These requirements appear to be independent of location in the Northwest Territories.
- The court ruled that it did not have authority to review the decision made by the Legislative Assembly not to publish the Hansard in French. The court held that the Legislative Assembly has legislative privilege over decisions about the publication of the Hansard and broadcasts of the debates of the Legislative Assembly, and this privilege was not abrogated by the passage of the *Official Languages Act*.

Given all of this, it means that the Legislative Assembly and Government of the Northwest Territories must continue to work on the issue of how they will provide equality of service in French.

R. v. Mazerolle

This New Brunswick case highlights issues regarding accommodation of language rights under the New Brunswick *Official Languages Act*. In the case, a Francophone individual (Mazerolle) was pulled over by an Anglophone RCMP officer who spoke little French. Mazerolle stated to the officer that it was his preference to speak French, but that he was prepared to accommodate the English speaking RCMP officer and speak in English. The RCMP officer made arrangements for a Francophone officer to attend the scene, resulting in a delay of approximately 17 minutes before proceeding with a breath sample.

At trial, the judge determined that:

- i) Once an individual makes his or her language *preference* clear, it is the obligation of the officer to accommodate that preference.
- ii) A delay of 17 minutes, in order to allow an accommodation of the language preference, was not an undue delay.

This case is important because it highlights that the issue is not whether an individual seeking language services *needs* those services, but rather, whether he or she expresses a *preference* and *wants* language services. It also highlights, as does the *Federation Franco-tenoise* case, that there can be a reasonable delay in order to provide language services.

Kilrich Industries Ltd. v. Halotier

This case involves the interpretation of Sections 4, 5 and 6 of the Yukon Territory's *Languages Act*, which are similar to Sections 7, 6 and 11 of the Northwest Territories *Official Languages Act*, respectively. The Court of Appeal of the Yukon Territory found that:

- The Rules of Court of the Yukon Territory must be published in English and French (including any court forms).
- It is up to the judge to determine how a person's language rights will be met during the course of a trial. There is no positive obligation to provide a bilingual judge, clerk or interpreter.
- The court registry must provide the same assistance to a self-represented French speaking person as it would provide to an English speaking person.

This case is important in that it emphasizes the need to ensure that language services are provided during all aspects of a court proceeding. However, it also affirms, as with the *Federation Franco-tenoise* case, that the government has a range of options in terms of how it provides those language services.

DesRochers v. Canada (Industry)

In this case, the Supreme Court of Canada considered the meaning of Section 16(1) of the Charter, which provides that English and French “have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada”. This is similar wording to paragraph 8 of the preamble of the *Official Languages Act* of the Northwest Territories.

In this case, the issue was in regard to services provided by a remote economic development office. The important piece for the Government of the Northwest Territories to take away from this case, is that the case helps to define the term “significant equality”, and the court made it clear that this involves a comparison of the services provided in regard to the languages in question. The court stated:

“What matters is that the services provided be of equal quality in both languages. The analysis is necessarily comparative. Thus, insofar as North Simcoe, in accordance with the programs’ objectives, made efforts to reach the linguistic majority community and involve that community in program development and implementation, it had a duty to do the same for the linguistic minority community.”

The court went on to find that North Simcoe had taken steps to remedy deficiencies, which previously existed, and the court stated:

“... it has advertised in newspapers of the French-speaking community and on the French-language radio station; it has personal contacts with key representatives of the French-language minority community to inform them of its services; its Francophone volunteers have also promoted its services in the context of their contacts with the community; and it has published a new bilingual newsletter that has been presented to representatives of the French-speaking community and mailed to 92 Francophone businesses.”



Interesting Research

In January 2008, the Languages Commissioner had the opportunity to attend the Official Languages Research Conference in Ottawa. The conference was organized by the Federal Official Languages Commissioner and the Official Languages Secretariat.

The conference was an opportunity to learn about research on linguistic duality and the problems faced by those trying to tackle the subject. A study of federal research funding agencies found: that there was low priority given to research on the topic of linguistic duality; that researchers in official language minority universities face significant obstacles in conducting research, including the predominance of English published research; limited language skills of reviewers who assess funding proposals in French; as well as inadequate research infrastructure, support and networking opportunities in smaller universities. The view of the Federal Official Languages Commissioner was that Official Languages research must be better integrated into the research programs, plans and priorities of universities, research funding agencies and the government. It was also found that there was a need for partnerships between funding agencies and research communities to establish action-based research within communities or to establish research centres.

A number of recommendations were forthcoming from this study, including:

1. Develop a strategy to promote the different types of research programs offered.
2. Ensure adequate evaluation in both Official Languages.
3. Establish a specific funding mechanism for small bilingual and Official Language minority universities to help sustain research capacity at the professor and student levels, and increase research infrastructure in these establishments.
4. Set aside a funding envelope to encourage small Official Language minority universities to create research centres and increase their capacity to partner with existing networks.
5. Continue to streamline their funding application processes in consultation with university researchers.
6. Develop a strategy to increase the awareness, knowledge and comprehension of peer review committee members about the particular circumstances and obstacles of researchers at small Official Language minority universities.
7. Set aside stable funding for research on Official Languages issues and for disseminating the results of the research.

8. Keep disaggregated data on funding to Official Language minority institutions and for research on Official Languages issues.

The Northwest Territories does not have any university or more formalized research mechanisms. Nonetheless, the notion that research on Official Language minority communities needs to be a government priority is definitely applicable to the Northwest Territories. In particular, the research suggests: that there must be funding set aside to conduct research into Official Languages; that there should be a strategy to promote Official Languages research; and that there must be a strategy developed to overcome the obstacles of conducting research in minority Official Languages. It is also highly unlikely that Official Language minorities can carry out this research without funding and support. With a number of the Northwest Territories Official Languages on the verge of extinction, it is imperative that the Government of the Northwest Territories be a leader in Official Languages research in conjunction with minority Official Language groups.

RECOMMENDATION:

That the Government of the Northwest Territories take active steps to ensure that appropriate funding and research mechanisms are in place to allow research on minority Official Languages.

The Future

Review of the *Official Languages Act*

The Standing Committee on Government Operations has now tabled its final report following the review of the *Official Languages Act*. The report, entitled “Reality Check: Securing a Future for the Official Languages of the Northwest Territories”, contains recommendations that call for major changes in how the Legislative Assembly and Government of the Northwest Territories deal with Official Languages. Some highlights are:

- The creation of an *Official Languages Services Act* to replace the *Official Languages Act*. The proposed legislation will contain provisions for working with language groups to determine priorities, and focusses on a services delivery model.
- Creation of the Official Languages Secretariat as the central agency to deal with implementation and accountability under the *Official Languages Services Act*.
- Creation of an Aboriginal Languages Protection Regime to deal with issues of Aboriginal language loss and endangerment, and the need for protection and revitalization of these languages. This includes the establishment of an Aboriginal Languages Authority and an Aboriginal Languages Advisory Committee.

In total, the report contains 48 recommendations. The proposed model has some attractive features. Most notably, it moves away from legislation based on the Federal *Official Languages Act*, an Act that does not work well in a jurisdiction with 11 Official Languages, a large geographical area, and languages that are in danger of extinction. Further, the emphasis on a services based model helps ensure that members of the public will have the ability to communicate with the government in the various Official Languages.

Despite the positive features in the proposed legislation, concerns still exist. The current *Official Languages Act* already contains provisions that require the government to give a commitment to Official Languages. However, the Committee found, on page 10 of its report:

“People are also disillusioned and frustrated with the lack of accountability for implementing government commitments relating to Official Languages. Generally, they found that the government is not fulfilling its obligations for Aboriginal languages as prescribed by the *Official Languages Act*. There is no plan in place that supports central, regional or community government offices and agencies to provide services in the Aboriginal languages. People also found that there is no accountability or reporting mechanism in place that assesses how the government provides these services.

... participants reminded the Members of the Committee that it was government policies of the past that contributed largely to the language loss experienced today.”

Simply changing legislation will not address these concerns. Rather, the government will have to make a concerted effort to work with the Official Languages communities in order to protect and preserve Official Languages and to allow them to thrive. This process will necessarily include:

- Consultation with language communities to establish priorities.
- Training of interpreters and translators, especially in the areas of health and justice.
- A human resources strategy that includes the development of a plan to provide government services in French and Aboriginal languages.

There are other major issues with the proposed changes. The Committee is still recommending that services be based on designated areas. This is problematic, in that it assumes that all speakers of a particular Official Language are congregated in one place. While there are certainly areas where an Official Language is predominant, there are always speakers of that Official Language who reside outside that area.

If the government is truly committed to the preservation and promotion of Official Languages, then it needs to ensure that services are available in all of the Official Languages of the Northwest Territories, regardless of the location of the person who is seeking the service. Given current and developing technology, such as audio and videoconferencing, this is not an unrealistic expectation. As well, the recommendations do not take into account that people in the Northwest Territories travel to receive services, and as such, it is unrealistic to limit Official Languages services to designated areas. Further, the recommendations are unclear in terms of the Aboriginal Languages Protection Regime. The recommendations do not indicate that the “regime” will be part of legislation, and it may only form part of government policy or protocol. As stated by the Court of Appeal in the *Federation Franco-tenoise* case, government policies are not binding, and if the “regime” is not part of legislation, then there is no obligation on the Legislative Assembly or government to follow through with the “regime” or take any steps to promote and protect Official Languages.

RECOMMENDATIONS:

That the Legislative Assembly continue to move forward with the concept of a service based model as suggested by the development of the proposed *Official Languages Services Act*. However, in moving forward, consideration must be given to:

- The fact that not all speakers of an Official Language reside in a designated area.
- That residents of the Northwest Territories travel in order to receive services.
- The Legislative Assembly of the Northwest Territories and the Government of the Northwest Territories have a positive obligation to promote and protect Official Languages.

That the Aboriginal Languages Protection Regime be contained in legislation, and not just become part of government policy or protocol.



Summary of Recommendations

1. That the Minister Responsible for Official Languages provide a written confirmation to the Aboriginal Languages Revitalization Board and the Official Languages Board when there has been follow through on recommendations made by the Boards.
2. That the Minister Responsible for Official Languages provide support to the Aboriginal Languages Revitalization Board and Official Languages Board in regard to their roles and responsibilities and in dealing with issues internal to the Boards, such as attendance and quorum.
3. That the Government of the Northwest Territories take active steps to ensure that appropriate funding and research mechanisms are in place to allow research on minority Official Languages.
4. That the Legislative Assembly continue to move forward with the concept of a service based model as suggested by the development of the proposed *Official Languages Services Act*. However, in moving forward, consideration must be given to:
 - The fact that not all speakers of an Official Language reside in a designated area.
 - That residents of the Northwest Territories travel in order to receive services.
 - The Legislative Assembly of the Northwest Territories and the Government of the Northwest Territories have a positive obligation to promote and protect Official Languages.
5. That the Aboriginal Language Protection Regime be contained in legislation, and not just become part of government policy or protocol.

Official Languages of the Northwest Territories



FRENCH is mostly spoken in Hay River, Fort Smith, Inuvik and Yellowknife.
ENGLISH is spoken throughout the Northwest Territories.
INUKTITUT is mostly spoken in Yellowknife.

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